IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 163 OF 1996.

Suvarnasingh Tiratsingh Dhanjal, aged: 30 years, residing at Khopoli, Taluka: Khalapur, District: Raigad.] .. Appellant (Orig.accused)

Versus

The State of Maharashtra.] .. Respondent

Mr. R.R. Bhosale for the appellant.

Mr.A.M. Shringarpure, A.P.P., for the respondent-State.

ALONGWITH

CRIMINAL APPEAL NO. 461 OF 1996

The State of Maharashtra.] .. Appellant

Versus

1. Suvarnasingh Tiratsing Dhanjal, age 29 years, r/o. Khopoli, Taluka Khalapur, Dist. Raigad.] .. Respondent (Ori. accused No.1)

Mr. A.M. Shringarpure, A.P.P., for the appellant-State.

Mr. R.R. Bhosale for the respondent.

AND

CRIMINAL APPEAL NO. 462 OF 1996

The State of Maharashtra.] .. Appellant

Versus

1. Tiratsing Kisansing Dhanjal, age 67,
2. Smt. Sarjeet Kaur Tiratsing Dhanjal,]

age 52 years,]
3. Amarjeetsing Tiratsing Dhanjal,]
age 30 years,] .. Respondents
All are residing at Khopoli,] (Ori. accused
Taluka Khalapur, Dist. Raigad.] Nos.2 to 4)

Mr. A.M. Shringarpure, A.P.P., for the appellant-State.

Mr. R.R. Bhosale for the respondents.

CORAM: S.S. PARKAR &
ANOOP V. MOHTA, JJ.

DATED: 6TH SEPTEMBER, 2005

ORAL JUDGMENT. : [Per Anoop V. Mohta, J.]

1. All these Appeals are arising out of a judgment and order dated 7th March, 1996, passed by the Sessions Judge, Raigad, Alibag, whereby, appellant No.1 (accused No.1) in Criminal Appeal No.163 of 1996 has been convicted for the offence punishable under Section 498A and 306 of the Indian Penal Code (for short "IPC") and acquitted for the offence punishable under Section 304B and 506 of the IPC. Accused Nos.2 to 4 i.e. respondent Nos.1 to 3 in Appeal No.462 of 1996 filed by the State of Maharashtra under Section 378(1) of the Criminal Procedure Code (for short "Cr.P.C."), were acquitted. The State of Maharashtra has also preferred an Appeal under Section 377(1) of the Cr.P.C. for enhancement of the sentence passed by the Sessions Judge against accused No.1. All these Appeals have been heard

together. Therefore, are being disposed of by this common Judgment.

2. As per the prosecution the death of the deceased Manjeet Kaur occurred on 18-9-1992 at the house of the accused due to 100% burn injuries. Accused No.1 is the husband of the deceased. Accused Nos.2 and 3 are the father and the mother of accused No.1 respectively and accused No.4 is his brother. P.W.1 Kuldeepsing is the father and P.W.4 Jeetkaur is the mother of deceased Manjeet Kaur. P.W.2 Sikandarsing is her maternal uncle and P.W.3 Preetamsing is her brother. These witnesses are residents of Ahmednagar. The accused are residing at Khopoli. The marriage of deceased Manjeet Kaur was celebrated on 2-2-1989 with accused No.1 at Ahmednagar. After the marriage she was staying with her husband at Khopoli. Accused Nos.1 to 4 were living at Khopoli as members of joint family. For the first six months after the marriage, the deceased had no complaints and was staying with the accused happily. After six months, accused started harassing the deceased by demanding cash amount of Rs.50,000/- a Godrej cupboard and a refrigerator from her parents. P.W.1, Kuldeepsing had been to the house of the accused to see his daughter the deceased Kaur, disclosed this fact to her father. On the very next day, accused No.1 along with his friend

Baban came to the house of his inlaws. At that time, the father of the deceased was not present in the house. His wife and sons were at the house. Accused No.1 made demand of Rs.50,000/- them and gave threat to kill Manjeet in case his demand was not fulfilled and he left their house.

3. On the very next morning, the mother Jeetkaur of the deceased rushed to Khopoli. She, alongwith the deceased Manjeet boarded the rickshaw to return back to Ahmednagar. Both were restrained on the road by all the accused. They assaulted her, as well as, the deceased. Immediately, they rushed to the Police Station and lodged complaint against the accused persons. With the help of Police they boarded the bus and reached to Ahmednagar.

4. At that time the deceased was pregnant. After 4-5 days she begot a male child on 23-4-90. The message of delivery was sent to the accused persons by her parents, but none of the accused came to Ahmednagar to see newly born child. Since thereafter, she was staying at the house of her father. She had sent one notice to accused No.1 alleging various harassments as referred above. Accused No.1 replied the said notice and informed the deceased that she was at liberty to take

any action against him.

5. Thereafter, the deceased filed a proceeding for maintenance bearing Cri.Misc. Application No.32/90 in the Court of Judicial Magistrate, F.C., Ahmednagar. After hearing the parties, the learned Magistrate at Ahmednagar passed an order directing accused No.1 to provide maintenance at the rate of Rs.200/- per month to the deceased and Rs.150/- per month to their son. The said decision was unsuccessfully challenged by accused No.1 by preferring revision petition in the Sessions Court, but not deposited the arrears of maintenance amount.

6. In the month of June 1992, he approached his father in law and expressed his inability to deposit the arrears of maintenance and gave assurance of good treatment to the deceased and agreed to take her back. The father asked him to give security for the same. On the very next day, he came to Khopoli. One Kisan Shelar was the person from the acquaintance of both the parties. Kisan Shelar approached the accused. They gave assurance of good treatment. So Kisan Shelar stood surety for good treatment from accused to the deceased.

7. On 11-6-92 the deceased returned back to

Khopoli to stay with accused No.1 and other accused. Thereafter she was staying with accused No.1 separately, till her death on 18th September, 1992. Meanwhile her maternal uncle P.W.2 Sikandarsing visited her house. He noticed that relations of the deceased with the accused were not normal. The deceased had disclosed to the maternal uncle that accused No.1 continued the previous demand of cash amount of Rs.50,000/- cupboard and refrigerator. Thereafter this maternal uncle advised accused No.1 not to harass the deceased for the demands and approach her father for the said demand. From Khopoli he went directly to his residence in Delhi. From Delhi, on phone, he gave message to the father of the deceased about the harassment and demand.

8. Thereafter, on 15-8-1992, the deceased called PW4 to Khopoli. The girl disclosed to her father (PW4) that husband was insisting the demand of money and accused No.1 expressed his desire to perform second marriage. He advised his daughter the deceased not to give attention towards trifle matters and went back.

9. On 18-9-92 while the deceased was staying with accused No.1 in a rented house at village Bhanvaj in absence of her husband, she set herself on fire and committed suicide. Accused No.1 reported this fact to

the Police at Khopoli, on which report Police Station Officer took Accidental death entry No.23/92. The message of this death was given to the father on phone. Immediately father and other relatives rushed to Khopoli from Ahmednagar. In the accidental death enquiry, Assistant Sub Inspector P.K. Bhoir recorded the inquest panchanama Ex.11 and referred the dead body for post-mortem. He has also recorded the spot panchanama Exh.12 in the enquiry itself. After the post-mortem the clothes of the deceased were seized under panchanama Exh.13. The Doctor conducted post-mortem and issued post-mortem notes Exh.26 and gave opinion that cause of death was due to 100% burns. The Viscera as preserved and sent to Chemical Analyzer. No recognizable poison was detected in Viscera. After attending the funeral, P.W.1 Kuldeepsing, lodged complaint Exh.20 with Police Sub Inspector Shri Patale of Police Station. Mr. Patale registered crime No.85/92 for the offences of cruelty, dowry death, and abetment to suicide. In the investigation, he recorded the statement of the witnesses including the mother, the brother and the maternal uncle of the deceased. He also collected the record of the maintenance proceeding.

10. Accused Nos.1, 2 and 4 were arrested on 20-9-1992 and accused No.3 was arrested on 25-9-92.

They obtained bail from the Court. After completing the formalities of the investigation, Mr. Patale submitted the charge-sheet before the Judicial Magistrate, F.C., Kolhapur on 4-12-1992. The learned Magistrate committed the case to the Court of Sessions at Kolhapur by his order dated 15-7-1993.

11. All the accused denied the charges and pleaded not guilty. The prosecution has led evidence of 7 witnesses, including 4 relatives of the deceased (PW1 to PW4) and the Police Personnel (PW5 to PW7). No independent witnesses were examined. The Sessions Judge acquitted accused Nos.2 to 4 on all counts and convicted only accused No.1 under Section 498A of the IPC and sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.1,000/- and, in default, to suffer rigorous imprisonment for 3 months and also convicted him for the offence punishable under Section 306 of the IPC and sentenced to suffer rigorous imprisonment for 3 years and to pay fine of Rs.2,000/- and, in default, to suffer further rigorous imprisonment for 6 months. The substantive sentences were to run concurrently. Accused No.1 was acquitted for the offence punishable under Section 304B and 506 of IPC. Therefore, Appeal by accused No.1 against conviction, by the State of Maharashtra against acquittal of accused Nos. 2 to 4

and for enhancement of sentence against accused No.1.

12. The cause of death, as recorded and certified in Exhibit-25 and Exhibit-26 [Post Mortem Report] was 100% burn injuries. There was no direct evidence of the incidence in question. The Report was lodged by the accused No.1 (Exhibit-34) and the same was recorded by PW-Head Constable. Accused No.1 was not present, at the relevant time in the house. Other accused Nos.2 to 4 were also not present as they were residing at different house, 3 to 4 Kms. away from the spot in question. Accused No.1 and the deceased were staying in one room as a tenant. The Spot Panchanama (Exhibit-12) was recorded in the accidental death enquiry on the Report of accused No.1. The dead body was found in the sink alongwith partly burnt pieces of clothes. One plastic can containing kerosene was found on the wall of the sink. The sink was black stained partly. One matchbox, in burnt condition, was lying in the sink. Another plastic can was also lying. The spread kerosene was noticed in the bathroom also. No matchbox or other remaining sticks were found in the kitchen. No other food material or such other things were found in the kitchen. As per the medical report, trace of poison was also found in the body. The learned Judge, therefore, after considering the evidence led and the material

found on the record, rightly held that the death of the deceased which occurred on 18th September, 1992, due to burns, was a suicidal death. Admittedly, death occurred within three years of the marriage and it was unnatural. The deceased committed suicide.

13. The relevant provisions invoked were Section 498A, 304B, 306 of IPC read with Section 113A of the Evidence Act. The Scheme of the provisions is that if the death of a woman is caused by any burn or fatal injury or occurs otherwise than the normal circumstances within 7 years of marriage and if it is shown that before her death she was subjected to the cruelty by her husband or relatives or in connection with demand of dowry, in that case, it amounts to dowry death and the husband and relatives can be punished for the offence accordingly. The prosecution, therefore, is required to prove the above ingredients, apart from presumption of Section 113 of the Evidence Act.

14. In view of the above backdrop of facts and law, the learned Sessions Judge was right in convicting appellant-accused No.1 under Section 498A and acquitting accused Nos.2 to 4 on all counts.

15. The first question is whether it was a case of

dowry death as contemplated under Section 304B of the IPC. After considering the evidence of PW1 to PW4, the learned Sessions Judge was right in holding that it was not the case of dowry death. There is nothing on the record, as borne out and/or pointed out, to suggest that there was any agreement of any kind to make the payment of Rs.50,000/-, and a demand of cupboard and as complained of. No evidence in this regard supported the case of the prosecution. The constant demand, as referred above, even if taken note of in the present case, that itself cannot be treated as a dowry as contemplated under Section 304 read with Section 2 of the Dowry Provisions Act, 1961. In the present case, the suicidal death occurred within 7 years of marriage. There is ample evidence to support the prosecution case about the cruelty and the harassment by her husband-accused No.1 and not against all other accused, but there is no connecting link that the said cruelty and harassment was in connection with the dowry. As the prosecution failed to prove any agreement directly or indirectly between the parties at or before or at any time after the marriage in connection with the marriage of the parties. Both were living together happily for more than six months from the date of the marriage. There was no such complaint made during this period. In absence of this main ingredient, even though the death

caused otherwise than in ordinary circumstances, the presumption of dowry death, as contemplated under Section 113A and 113B of the Evidence Act is difficult to accept. The Appellate Court, therefore, was right in acquitting the accused insofar as Section 304B of IPC. In view of the above concurrent reasoning also, the Appeal against acquittal by the State of Maharashtra needs to be rejected. As referred above, there is no case and connection brought on the record by the prosecution in this regard even against all other accused.

16. Next question is the conviction under Section 498A IPC. The basic ingredients required here are cruelty and harassment of a married woman within a period of 7 years of the marriage. The meaning of the word "cruelty" is given in the explanation attached to Section 498A of IPC. In the present case, there was the suicidal death within seven years of the marriage. The presumption as contemplated under Section 113A goes against accused No.1 and the relatives accused Nos.2 to 4. So far as accused Nos.2 to 4 are concerned, there is an acquittal order, rightly so, in view of the above reasoning that at the relevant time of the incident, accused No.1, alongwith the deceased were living in the rented premises separately from accused Nos.2 to 4.

There is no connecting link or circumstance to suggest and/or connect any sort of constant cruelty and harassment so far as accused Nos.2 to 4 are concerned. The order of acquittal in respect of accused Nos.2 to 4, therefore, is correct.

17. The conviction order against accused No.1, however, at the same stroke, is proved beyond reasonable doubt. The prosecution has been able to prove that there was persistent demand of Rs.50,000/- a cupboard and from appellant No.1 only after 6 months of the marriage. There was constant pressure and insistence of the appellant-accused No.1. The evidence of PW4 and PW3 supported the case to the extent that the deceased had informed the father and the uncle about such demand made by the accused-appellant even after her return from the parents' house after more than 1-1/2 year. There is no independent witness in the present case. All the witnesses PW 1 to 4 are relatives of the deceased. The evidence of the relatives-witnesses cannot be discarded only on this ground being relatives of the deceased. The matrimonial disputes and such quarrels and demand mostly remain within the family. The demands were made directly to the deceased wife and her relatives. In the present case, the demand was made consistently which has been reflected in the evidence of PW1 and PW4.

18. To add to above, there is a letter on the record dated 21/1/1996 (Exhibit-21) which has been strongly relied upon by the learned counsel appearing for appellant No.1 to suggest that the appellant in fact had insisted and requested the deceased to come back to the matrimonial house, but as we have noted in the said letter, there was a hint of threat that irrespective of any circumstance, the appellant would take her son back.

19. In the present case, inspite of the order passed by the Magistrate directing the appellant to deposit the maintenance in favour of the deceased, still he did not comply with the order. He unsuccessfully challenged the said order in the Revision. Lastly, he requested the father of the victim to send the deceased back as he would not be in a position to comply with the order of the Magistrate. The appellant never deposited the maintenance charges. It is an undisputed position on the record that appellant-accused No.1 never visited the house of the deceased even after the birth of a child. The deceased was living separately with her child at her parents' house since more than one and half years, except few days before the incident. The deceased, at the request and as promised of good behaviour by appellant-accused No.1, started living

separately in the rented premises.

20. There were no other relatives living in the said rented house. As per appellant No.1, one of his colleague informed about the incident and, therefore, he rushed to the spot and accordingly lodged the complaint. It was registered as an accidental death by the Police. There were 100% burn injury as per the medical report and there was no dying declaration recorded. All these circumstances, therefore, establish a link of constant harassment and cruelty which resulted into the suicidal death of the deceased. Appellant-accused No.1, as observed by the Session Judge, abetted the commission of such suicide.

21. The missing link, however, is whether the instigation or aiding to commit the suicide was so immediate or within the proximity of the incident to convict the case under Section 306 of IPC as the Appellate Court has convicted the appellant under that Section also. Section 306 is distinct from Section 498A of IPC. The present case is of the suicidal death. The abetment by appellant No.1 is not borne out from the record. At the relevant time of the incident, there was no one in the house. There were no eye witnesses. There were no independent witnesses examined. The

complaint was lodged by appellant No.1 after information from third person. It means that at the relevant time, appellant No.1 was not present on the spot.

22. They were living together in the rented premises. What transpired during that particular night or before those particular hours is missing. If the appellant- accused No.1 was not present in the house and in his absence, the deceased had committed the suicide, such suicidal death even if was because of cruelty and harassment, as contemplated under Section 498A of IPC, cannot fall within the ambit of Section 306 of IPC in the facts and circumstances of the case. The Appellate Court, in the present case, has convicted the appellant under Section 306 of IPC also.

23. The Apex Court in **Randhir Singh Vs. State of Punjab** 2005, S.C.C. (Cri.), 56, while dealing with Section 306 read with Section 2 of the Dowry Provisions Act, 1961, has observed thus:

> "12. Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a

> person can be said to be abetting the commission of offence under Section 306 IPC.
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> 13. In *State of W.B. v. Orilal Jaiswal* this Court has observed that the courts should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meter out to the victim had in fact induced her to end the life by committing suicide. If it inspires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty."

Therefore, it is the facts and circumstances of the case should lead to a particular conclusion.

24. In the present case, all the four witnesses PW1 to PW4 have corroborated that accused No.1 and the deceased were living happily for first six months along with the other accused. There was no such demand of any agreed dowry or property in connection with the marriage. In the complaint, the allegation of harassment on the ground of demand of Rs.50,000/-, a cupboard and a refrigerator from the parents of the

deceased was recorded without referring to these demands in connection with the marriage. The said demand was continued, as per PW1 who visited the house of the deceased 12 days' prior to the incident. The said demand, as per PW1, was persisted by accused No.1. PW3 Pradeepsing, the brother of the deceased and PW4 Jeetkaur, the mother of the deceased had further corroborated that accused No.1 came to their house and made demand of the above property and also gave threat. As noted, in the litigation for maintenance filed by the deceased for herself and for the newly born child (Exhibit-16) there was no reference made about any agreed demand of dowry in connection with the marriage by all the accused. PW1, who visited the house of the deceased 10 days prior to the incident, in his evidence he made a reference to accused No.1 with regard to such demand as disclosed by the deceased. The prosecution, therefore, failed to bring on the record, any material to justify the conviction of accused Nos.2 to 4, respondents in the Appeal filed by the State. The prosecution also failed to connect accused Nos.2 to 4 in reference to the incident which the deceased had reported to the Police Station orally, but the Police did not record the complaint, as stated by PW4 Jeetkaur, when they went to take the deceased back to her parents' home. She has stated that all the accused restrained

them to take her daughter back and started assaulting and, therefore, she rushed to the Khopoli Police Station to lodge the complaint which was not recorded.

25. The visit dated 15th August, 1992, i.e. 3 days prior to the incident by PW1 Kuldeepsing was the last visit by any third person to the house of the deceased and accused No.1. This incident was recorded in the complaint, but the complaint lodged against all the accused, including accused Nos.2 to 4, based on the said incident falsifies the prosecution case about visit of PW1 Kuldeepsing. Anyway, even if it is assumed that the said Kuldeepsing lodged the complaint, based on the deceased's disclosure of harassment from all the accused, the same remained uncontroverted. There is nothing to prove that all the accused were living together in the said house at the relevant time. On the contrary, there is substantial material on the record to show that accused No.1 and the deceased were living together in the rented house 12 days prior to the incident. The prosecution failed to prove that all the accused gave any threat to the deceased as deposed by PW3 and PW4. The Trial Judge rightly observed that the incident and that itself was suspicious and, therefore, the charges under Section 506 read with Section 34 of IPC fail against all the accused. The order of

acquittal so far as accused Nos.2 to 4 are concerned, is correct. The Apex Court in **State of Punjab Vs. Ajaib Singh** 2005, S.C.C. (Cri.), 43, reiterated the law of Appeal against acquittal based on Section 378 and 386 of the Criminal Procedure Code and observed as follows:

> "10. This being an appeal against acquittal, we have with the assistance of counsel for the parties gone through the evidence on record with a view to find whether the view favourable to the accused taken by the High Court is based on the evidence on record and is reasonable. It is well settled that in an appeal against acquittal, the appellate court is entitled to reappreciate the evidence on record, but having done so, it will not interfere with the order of acquittal unless it finds the view of the court acquitting the accused to be unreasonable or perverse. If the view recorded by the court acquitting the accused is a possible, reasonable view of the evidence on record, the order of acquittal ought not to be reversed."

In view of the above facts and the legal backdrop, there is no such case made out to interfere with the finding given by the Sessions Judge in respect of accused Nos.2 to 4 on all Counts.

26. The evidence of PW2 Sikandarsingh, the maternal uncle of the deceased, who had claimed to be with the deceased for 3 days before 8 to 10 days from the date of the incident, admittedly did not go to the house of the father of the deceased, but directly went to Delhi and from Delhi, he informed on phone about the disclosure made by the deceased. There is no corroboration of any kind to support the prosecution case that PW2 had visited the deceased and had stayed there for 3 days and the deceased had disclosed to him about the harassment. In the present case, accused has admitted his visit to Khopoli, but still there is nothing on the record to connect any instigation or abetment by the accused to the deceased which resulted into the suicide.

27. However, the above reasoning, as well as, the evidence on the record justify the order of conviction against accused No.1 under Section 498A, but not under Section 306 of IPC. The constant harassment and cruelty to the deceased by the accused No.1 has been proved by the prosecution. But, there is no sufficient material to justify the offence of abetment of suicide as contemplated under Section 306. In the present case, 12 days prior to the incident, the accused No.1 brought the

deceased from her parents house and they were living together in the rented premises separately from accused Nos.2 to 4. There was case of abetment of suicide all this period or any kind of such instigation. The incident took place on 18/09/1992. There is no material on the record to justify the case under Section 306 to the extent that accused No.1 abetted the deceased to commit suicide. Prior to this incident, deceased was living with the newly born child along with her parents at their house. Accused No.1 was unable to deposit the maintenance as ordered by the Court and, therefore, visited and requested the parents to send the deceased back to him and accordingly, accused No.1 brought the deceased and started residing with her in the rented house. When PW1/PW2, 10 days before the date of the incident, visited the deceased, she disclosed that the demand of accused No.1 was persistent. As observed above by the Apex Court in **Randhir Singh** (supra) abetment involves a mental process of instigating a person or intentionally aiding that person in doing such act. There is no case made out by the prosecution that appellant-accused No.1 was instigating and/or intentionally aiding the victim to commit suicide. Even though the prosecution has proved the case of cruelty and harassment, as contemplated under Section 498A of IPC, still there is nothing to justify the more active

role played by accused No.1 of instigation to commit suicide. The demand and harassment to that extent which was going on since more than two years. In the present facts and circumstances of the case, that itself cannot be the foundation for convicting accused No.1 for abetment of suicide in question as contemplated under Section 306 of IPC. It means that the said demand was not new. It was in the mind of the deceased since more than two years i.e. from April 1992 to June 1994. The evidence of PW2 and PW3 refers to the said disclosure by the deceased, 10 days' prior to the incident. There is no evidence by any witnesses, including any independent witnesses like neighbours, to show that accused No.1 abetted, instigated or intentionally aided the deceased to commit suicide. The Apex Court in **Sushil Kumar Sharma Vs. Union of India & Ors.** (2005) 6 S.C.C., 281, while considering the constitutional validity of Section 498A of IPC, observed as under:

> "11. One other provision which is relevant to be noted is Section 306 IPC. The basic difference between the two sections i.e. Section 306 and Section 498-A is that of intention. Under the latter, cruelty committed by the husband or his relation drag the woman concerned to commit suicide, while under the former provision suicide is abetted and intended."

The Apex Court in **Kamesh Panjiyar Alias Kamlesh Paniyar Vs. State of Bihar** 2005, S.C.C. (Cri.) 511 has observed, while interpreting the word "Dowry".

> "14. The word "dowry" in Section 304-B IPC has to be understood as it is defined in Section 2 of the Dowry Act. Thus, there are three occasions related to dowry. One is before the marriage, second is at the time of marriage and the third "at any time" after marriage. The third occasion may appear to be unending period. But the crucial words are "in connection with the marriage of the said parties."

All the above ingredients are missing in the matter. There is nothing to show that the said demand was in connection with the marriage of the parties.

28. Considering all this, a case is made out by the appellant to interfere with the finding arrived at by the Sessions Court in respect of offence under Section 306 of IPC against accused No.1. We are of the view that accused No.1 has committed offence under Section 498A, but not under Section 306 of IPC as there is no connecting and/or substantial evidence to connect the accused No.1 with the suicidal death in question as the prosecution failed to bring on record, all the ingredients as contemplated under Section 107 and 306 IPC and basically the ingredients relating to "abetment"

and/or "instigation" and/or "intentionally aiding to commit the suicide". The benefit of doubt, therefore, should go in favour of appellant No.1 in regard to the offence under Section 306 IPC.

29. In view of this, there is no substance or case made out by the State of Maharashtra to interfere with the order of acquittal passed by the learned Judge against original respondent Nos.2 to 4 (accused Nos.2 to 4).

30. There is no case made out by the State of Maharashtra, in the facts and circumstances of the case, to enhance the punishment as already awarded by the Sessions Court. We are maintaining the reasoning and sentence awarded by the Sessions Judge under Section 498A of IPC against accused No.1 or respondent in Criminal Appeal No.461 of 1996.

14. In the result, the following order:

O R D E R :

(a) Appeal No.163 of 1996 filed by the accused No.1 is partly allowed. The judgment and order in reference to Section 306 of IPC is quashed and set

aside. However, in reference to Section 498A of the IPC, it is maintained and confirmed.

(b) The Appeal No.462 of 1996, filed by the State against the order of the acquittal against accused Nos.2, 3 and 4 is dismissed. The judgment and order of acquittal is confirmed against respondent Nos.2 to 4.

(c) The Criminal Appeal No.461 of 1996 filed by the State of Maharashtra for enhancement against accused No.1 is dismissed.

(d) The bail bond stands cancelled.

(e) The accused to surrender within six weeks.

. All these Appeals are accordingly disposed of.

[S.S. PARKAR, J.]

[ANOOP V. MOHTA, J.]